

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Trovare Capital Group, LLC,

Plaintiff,

v.

Simkins Industries, Inc.,
Harvard Folding Box Co., Inc.,
Linden-Summer Realty Co., Inc. and
Southern Union Company, Inc.,

Defendants.

Case No.: 08 cv 3133

Judge Gettleman
Magistrate Judge Nolan

**DEFENDANTS' MOTION FOR DISMISSAL OF THE COMPLAINT FOR
FAILURE TO STATE A CLAIM UPON WHICH RELEIF CAN BE GRANTED**

Defendants Simkins Industries, Inc., Harvard Folding Box Co., Inc., Linden-Summer Realty Co., Inc. and Southern Union Company, Inc. (collectively, the “defendants”), by their counsel, hereby move the Court under Fed. R. Civ. P. 12 (b)(6) for an order dismissing the complaint of plaintiff Trovare Capital Group, LLC (“Trovare”) for failure to state a claim upon which relief can be granted. The grounds in support of the motion, which are set forth more fully in the memorandum of law filed herewith, are as follows:

1. The three counts of Trovare’s complaint assert claims for breach of various provisions of a certain contract, to wit, a letter of intent (the “LOI”) dated May 23, 2007.

2. Specifically, the complaint seeks relief under, and as a result of claimed breaches of, Sections 13 and 14 of the LOI.

3. The complaint fails to allege facts that, even if true, would establish Trovare's entitlement to any relief under Section 13 or Section 14 of the LOI. As is set forth more fully in defendants' Memorandum of Law (which is incorporated herein by reference), plaintiff's complaint fails to state a claim against any of the defendants upon which relief can be granted and, therefore, the defendants' motion to dismiss should be granted.

WHEREFORE, SIMKINS INDUSTRIES, INC., HARVARD FOLDING BOX CO., INC., LINDEN-SUMMER REALTY CO., INC., and SOUTH UNION COMPANY, INC. (collectively "Defendants") respectfully request that this Court enter an Order dismissing plaintiff's Complaint with prejudice and or any other and further relief that this Court deems just and appropriate.

Respectfully submitted,

/s/ Thomas W. Mulcahy
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- and -

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Counsel for Defendants Simkins Industries,
Inc., Harvard Folding Box Co., Inc., Linden-
Summer Realty Co., Inc. and Southern
Union Company, Inc.

Dated: August 1, 2008

* Messrs. Russell and Kessler were granted leave to appear *pro hac vice* on July 30, 2008 [Docket Entry No. 17] and are in the process of setting up an E-Filing Account and entering their respective Appearances.